

Tax Information Bulletin

STATE BOARD OF EQUALIZATION

ISSUED QUARTERLY
March 1998

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Contents

1. Sales and Use Tax Rate Changes in Del Norte County
 2. New Toll-Free Number for Verifying Sellers' Permit Numbers
 3. You Can Pay Your Sales and Use Taxes by Credit Card
 4. Due Dates for Special Second Quarter Sales Tax Prepayments
 5. Determining Tax Rates by Zip Code Is Not Always Accurate
 6. Out-of-State Retailers Who Participate in Convention or Trade Show Activities
 7. Sales Tax Prepayment Rates for Distributions of Gasoline, Diesel, and Other Qualifying Fuels Scheduled To Decrease
 8. It Is Best To Get Tax Advice in Writing
 9. Which Beverage Sales Are Taxable?
 10. Sales Tax Exemption Cards for Diplomatic Personnel
 11. New Exemption for Blood Collection and Blood Pack Units
 12. Photocopying Businesses and Witness Fees for Subpoenaed Records
 13. Common Errors Discovered in Audits: Grocers and Sales of Hot Prepared Food Products
 14. Safety of Board Employees
 15. New or Revised Reference Material
- ❖ For Assistance (page 8)

1. Sales and Use Tax Rate Changes in Del Norte County

The Del Norte County Transactions and Use Tax (DNCD) will expire at midnight on June 30, 1998. As a result, the tax rate in the county will decrease to 7.25 percent on July 1, 1998.

You must report the DNCD tax on taxable transactions occurring on or before June 30, 1998. If you collect DNCD sales tax reimbursement or use tax after June 30, 1998, you must return the amount of tax collected to your customers or forward it to the state.

2. New Toll-Free Number for Verifying Sellers' Permit Numbers

As mentioned in the December *Tax Information Bulletin*, you can call the Board to verify a seller's permit number provided to you by a purchaser who is submitting a resale certificate to purchase property for resale.

You can now call the following toll-free number for this service:

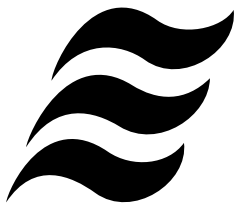
1-888-225-5263

This number is dedicated to verifying seller's permit numbers.

To speak to a representative, call between from 8:00 A.M. and 5:00 P.M., Monday through Friday, excluding State holidays. At the time you call, you should have the following information available: the seller's permit number, the name of the business, the name of the business owner, and the address of the business.

In a future issue of the *Tax Information Bulletin*, we will be reporting on a new "interactive voice response" feature that will allow callers to interact with automated equipment to verify sellers' permit numbers. We will also be reporting on the development of an interactive web page that will enable retailers to use the Internet to check sellers' permit numbers.

It should be noted that telephone staff can verify only that a seller's permit number is



assigned to a particular business. They cannot verify that the resale certificate has been properly completed or that the property being purchased would normally be resold by the purchaser.

3. You Can Pay Your Sales and Use Taxes by Credit Card

As of March 1, 1998, you can charge the sales and use taxes that are due with your return. The following conditions apply:

- Only cards issued by NOVUS (for example, the NOVUS/Discover Card) will be accepted for payment.
- Credit card charges will be accepted only over the telephone.
- If you are required to pay by electronic funds transfer (EFT), you *cannot* pay by credit card.
- You will be charged a fee for using the service based on the dollar amount of the transaction. The fee ranges from \$4 to \$18 dollars and will be quoted before completion of the transaction, allowing you the opportunity to discontinue the transaction.
- Payment by credit card will be an option, not a requirement. Making one payment by credit card does not establish a commitment to making future payments by credit card.
- The types of payments that can be made are prepayments, return payments, and prepayments of sales tax on fuel distributions. Accounts receivable payments *cannot* be charged.
- Returns and prepayment forms must still be submitted on a timely basis.

To charge your sales and use tax return payment:

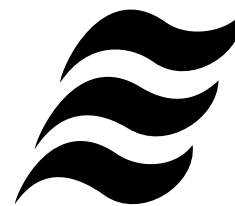
- ❶ First, complete your return or prepayment form to determine how much tax is due.
- ❷ Then, using a touch-tone telephone, call **1-800-477-4141** and follow the recorded instructions. Have your seller's permit number available when you call (it is printed on your return or prepayment form). At the end of your call, you will be asked to authorize or cancel the transaction. If you authorize payment, you will be given a confirmation number, which you should retain.
- ❸ After authorizing the payment, check the box on your return indicating you have paid by credit card.
- ❹ Sign and mail your completed return or prepayment form in the envelope enclosed with your return.

Your tax payment must be made on or before the due date. Otherwise, it is subject to interest and penalty charges.

4. Due Dates for Special Second Quarter Sales Tax Prepayments

Businesses with average taxable sales of \$17,000 per month or more are required to make prepayments. They must continue to make prepayments until advised in writing by the Board to stop. – Editor

If you make sales and use tax prepayments (by paper or through electronic funds transfers), you should mark your calendar to remind yourself of the upcoming second quarter prepayment due dates. Every year at this time special quarterly sales tax prepayment and EFT prepayment requirements take effect for the second calendar quarter (April through June), and



every year a number of taxpayers who make prepayments are taken by surprise.

First Prepayment

Your first prepayment is due on or before May 24, 1998. You must pay one of the following amounts:

- 95 percent of the tax liability due for the month of April 1998; or,
- One third of the measure of tax liability reported for the same quarterly period of the preceding year (2nd Quarter 1997), multiplied by the current tax rate. To use this second method of calculating the prepayment, you or your predecessor (the previous owner) must have been in business during all of the second quarter of 1997.

Second Prepayment

The second prepayment is due on or before June 23, 1998. You must pay one of the following amounts:

- 95 percent of the tax liability due for the period from May 1, 1998, through June 15, 1998, or
- 142.5 percent of the tax liability due for the month of May 1998, or
- An amount equal to one-half the measure of the tax liability reported for the same quarterly period of the preceding year (second quarter 1997), multiplied by the tax rate in effect when the payment is made. Again, to use this method, you or your predecessor must have been in business during all of the second quarter of 1997.

If you pay prepayments by check, money order, or in cash, all the appropriate forms for making the prepayment will be sent to you about a month before the due dates. If you pay by EFT, you will not receive any

prepayment forms; therefore, please write the due dates on your calendar.

The penalty for late prepayments, including those made by EFT, is six percent of the amount of the prepayment.

5. Determining Tax Rate by Zip Code Is Not Always Accurate

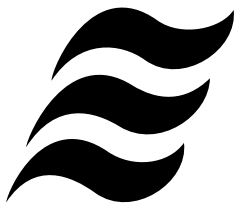
It is not always possible to determine the correct tax rate based on your customer's five digit zip code. If you rely solely on the zip code to determine the tax rate, you may assume your customer is in a tax district other than the one where he or she is actually located.

For example, if you ship merchandise to a customer in Oak Park, California, the zip code is 91301. Oak Park is located in Ventura County, where the tax rate is 7.25 percent. However, zip code 91301 also includes addresses in Los Angeles County, where the tax rate is 8.25 percent. If you charge tax based solely on the 91301 zip code, you may not charge your customer the correct tax rate.

For that reason, the Board has deleted the "Zip Codes within Special Taxing Jurisdictions" section from recent editions of publication 71, *California City and County Sales and Use Tax Rates*. If you are in doubt about the correct tax rate to use, you should check with your customer, consult a Thomas Guide map book, or contact your local post office to determine the tax district in which the customer is located.

6. Out-of-State Retailers Who Participate in Convention or Trade Show Activities

If you are an out-of-state retailer and participate in conventions and trade shows in California, your tax reporting



requirements will change effective April 1, 1998, if all of the following conditions apply:

- Your only physical presence in California is to participate in convention and trade show activities (as described in Section 513 (d) (3) (A) of the Internal Revenue Code); and
- You or your representative do not participate in those convention and trade show activities for more than seven days, in whole or part, during any twelve-month period; and
- You did not make more than ten thousand dollars (\$10,000) of gross income from these activities in California during the previous calendar year.

If you meet the above conditions, you are required to collect and report tax only on sales of property at the trade show or convention or those resulting from orders that are taken at the trade show or convention. This change is the result of the passage of Assembly Bill 238 (Chapter 621, Statutes of 1997).

7. Sales Tax Prepayment Rates for Distributions of Gasoline, Diesel, and Other Qualifying Fuels To Decrease

Beginning April 1, 1998, the following prepayment rates will apply:

- 7.5 cents (\$0.075) per gallon for motor vehicle fuel (gasoline)
- 6.0 cents (\$0.06) per gallon for diesel, aircraft jet fuel, and other qualifying fuels, as described below

These rates will remain in effect through March 31, 1999, unless the price of gasoline increases or decreases significantly, resulting in prepayments that consistently

exceed or are significantly lower than the fuel retailer's sales tax liability.

Sales tax prepayments do not apply to liquefied petroleum gas, compressed natural gas, liquid natural gas, and methanol and ethanol containing not more than 15 percent gasoline or diesel fuel. In addition, prepayments do not apply to any type of fuel that cannot be used to operate a motor vehicle on public highways, such as marine bunker fuel, atmospheric gas oil, light cycle oil and pipeline transmix.

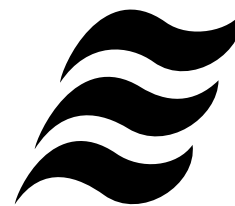
"Other qualifying fuels" include kerosene, any type of flammable liquid sold as or marketed as diesel fuel, and home heating oil meeting industry specifications for diesel No. 1 or No. 2.

8. It Is Best To Get Tax Advice in Writing

Each year, we receive thousands of calls from businesses needing help with their tax questions. While we are always glad to provide help and guidance with your various tax concerns, we would like to remind you that it is always best to get tax advice in writing.

Since the Sales and Use Tax Law can be complex, as are many of your business transactions, you are encouraged to put your questions in writing. Not only will that give us more information on which to base our reply; it may protect you from owing tax, interest, or penalties if we should give you erroneous written advice. Such protection is not provided for advice given to you in person or on the telephone.

The Sales and Use Tax Law provides that you may be relieved of tax, interest, and penalties if it is determined that your failure to file a timely return or make a



timely sales or use tax payment was due to your reasonable reliance on erroneous written advice from the Board. This relief is available if the advice provided by Board staff was in response to a written request from you, fully describing the specific facts and circumstances of the activities or transaction for which the advice was requested.

9. Which Beverage Sales Are Taxable?

As you are probably aware, sales of alcoholic beverages and carbonated beverages are subject to tax. But, did you know that sales of nonalcoholic and noncarbonated beverages may not be subject to tax?

In general, sales of noncarbonated and nonalcoholic beverages are not taxable when they are sold on a “to go” basis (see note below). They are generally taxable, however, when they are

- Sold for consumption at your place of business, or
- Sold as part of combination package that includes a hot prepared food product (for example, an iced tea and a hot pastrami sandwich sold for a single price).

Examples of noncarbonated and nonalcoholic beverages include fruit drinks, iced beverages (for example, noncarbonated iced fruit smoothies), sports drinks, milk and iced tea (including bottled iced teas) and some hot beverages (coffee, tea, and hot chocolate).

It should be noted that the term *beverages* does not include hot soup, bouillon and consommé. These are considered hot food products, sales of which are generally taxable.

Note: If you report tax under the 80/80 rule (many fast food restaurants report under this rule) or make sales through a vending machine, the application of tax differs. For more information concerning when sales of noncarbonated and nonalcoholic beverages are subject to tax, please call our Information Center and request a copy of publication 22, *Tax Tips for the Dining and Beverage Industry*, or Regulation 1603, *Taxable Sales of Food Products*.

10. Sales Tax Exemption Cards for Foreign Diplomatic Personnel

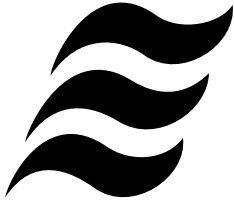
Certain foreign diplomatic personnel who are stationed in the United States, including diplomats, consular officers, and staff members of foreign embassies and consulates, are issued tax exemption cards by the U.S. Department of State. Sales tax does not apply to purchases made by authorized users of these cards (some cards have a minimum purchase requirement, and some exempt only certain purchases).

Two types of cards are issued:

Mission Tax Exemption Card. This card can be used only to make official purchases. It cannot be used to make personal purchases. The invoice for an official purchase must be in the name of the consulate and payment made by consulate funds.

Personal Tax Exemption Card. This card can be used for individual personal purchases.

Because treaties and diplomatic agreements may call for different types of exemptions, all tax exemption cards have colored stripes that define the conditions of the exemption. Cards with a red stripe have minimum purchase amounts for a single transaction.



If the minimum is met, the entire purchase amount is exempt from sales tax.

All tax exemption cards include a photograph and description of the authorized user. The purchaser must be the same person shown on the exemption card. A U.S. Department of State driver license or identification card may be requested as additional identification of the authorized user. All cards are to be honored by all sellers of tangible personal property if the above conditions have been met.

To support the tax-exempt status of these sales, retailers must prepare an invoice or other written evidence of the sale and attach a photocopy of the front and back of the card or list the name of the purchaser, the number of the exemption card, and the exemption level specified on the card.

Purchases of Vehicles

Sales or use tax does not apply to purchases of vehicles made with the above tax exemption cards. If the purchaser claims an exemption and does not have an exemption card, he or she must furnish to the retailer at the time of purchase an identification letter from the Office of Foreign Missions, U.S. Department of State, confirming the name of the purchaser, identification number, immune status, and the date the diplomat assumed his or her duties.

For More Information

The application of sales and use tax on purchases by foreign consuls is explained in Regulation 1619. To obtain a copy, please call the Information Center at 1-800-400-7115.

11. New Exemption for Blood Collection and Blood Pack Units

Effective April 1, 1998, the sale or use of any container used to collect or store human

whole blood, plasma, blood products, or blood derivatives is not subject to sales or use tax. The exemption includes blood collection units and blood pack units.

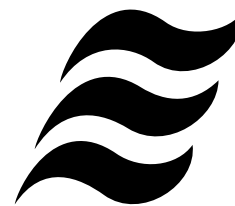
Blood pack units generally consist of a plastic bag or bags, disposable tubing, and a needle. Manual system blood collection units include a needle, multiple bags, a bag containing saline solution, tubing, filters, grommets, and a pooling bag. Automated systems generally consist of a needle, a bag of anticoagulant, tubing, a plastic bowl containing a stainless steel centrifuge and a pooling bag. Under the new law, sales of these blood collection and pack units are not taxable even if the tubing, needles, filters, etc. are discarded and not sold together with the blood.

Please note, the new exemption is not retroactive. You cannot claim an exemption or claim a refund of sales or use tax collected on sales of collection units or collection packs made before April 1, 1998.

12. Photocopying Businesses and Witness Fees for Subpoenaed Records

If you operate a photocopy business and are hired to obtain and copy subpoenaed records, the recordholder may ask you to pay a fee for providing those records to you. This fee is known as a "witness fee" and is allowed by section 1563 of the California Evidence Code, which enables recordholders to recover their reasonable costs for providing subpoenaed records—such as postage costs and clerical costs for locating and making the records available.

When you bill your customer for reimbursement of the witness fee, the fee is not taxable if



- The fee is separately stated on the invoice or other such billing, and
- The amount of the fee charged is allowable under California Evidence Code section 1563 (for a copy of the code section, you can contact the law library maintained by your county public library system). If you charge your customer more than the amount allowable under section 1563, the excess amount is taxable.

For more information on the taxability of witness fees, please refer to Regulation 1528. To obtain a copy, please call the Information Center at 1-800-400-7115.

13. Common Errors Discovered in Audits: Grocers and Sales of Hot Prepared Food Products

During regular sales and use tax audits, auditors have discovered that many more grocers are now selling hot prepared food products. For example, many grocers sell hot prepared chicken, burritos, rice, sandwiches, and so forth. All such sales are taxable, whether the food is sold to go or for consumption at your place of business.

Sales of hot prepared food products should be segregated from other sales and accounted for separately in your records.

It is also important that you account for food withdrawn from your resale inventory for sales of hot prepared food. These items should be netted from recorded nontaxable food purchases. This is especially important for grocers who use the purchase ratio method to compute nontaxable food sales. You will lessen the risk of overstating your food deductions if your records reflect the food products sold as hot prepared food.

If you have any questions regarding this article, please call our Information Center at 1-800-400-7115. They can send you a copy of Regulation 1603, *Taxable Sales of Food Products*.

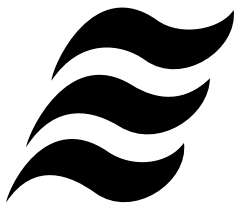
14. Safety of Board Employees

Paying taxes seldom comes under the category of “pleasurable things to do.” Dealing with deadlines and legal requirements is not always easy; yet, most people make an effort to carry out these responsibilities with little friction, or even with a degree of equanimity.

Unfortunately, this is not always the case. Sometimes, Board employees are threatened with physical harm. Whether such threats are made in jest or with serious intent, the Board must take them seriously. Employees have the right to feel safe and secure in their work environment. Because of this, it is the Board’s policy that threats to staff, whether made by other employees or made by the public, be reported to management and, if necessary, to law enforcement personnel for further action.

There are many administrative procedures in place that are designed to address the concerns of taxpayers who feel they have been treated unfairly. Taxpayers are encouraged to take full advantage of those procedures.

For more information on your rights as a taxpayer, please call the Information Center at 1-800-400-7115 and request a copy of publication 70, *The California Taxpayers’ Bill of Rights*. You may also call the Taxpayers’ Rights Advocate Office if you need help with a problem you have not been able to resolve at other levels. Call 1-888-324-2798.



15. New or Revised Reference Material

If you would like to obtain a copy of any of the following reference material, please call the Information Center.

Sales and Use Tax Regulations

- 1525.2 Manufacturing Equipment (effective 12-7-97)
- 1525.3 Manufacturing Equipment—Leases of Tangible Personal Property (effective 12-4-97)
- 1587 Animal Life, Feed, Drugs and Medicines (effective 1-8-98)
- 1660 Leases of Tangible Personal Property—In General (effective 12-5-97)
- 1684 Collection of Use Tax by Retailers (effective 11-27-97)
- 1705 Relief from Liability (effective 11-9-97)
- 1705.1 Innocent Spouse Relief from Liability (effective 12-5-97)

Motor Vehicle Fuel License Tax Regulations

- 1114 In-Tank Transfers, Physical Exchanges and Settlements (effective 1-1-98)

Sales and Use Tax Publications (cover date)

- 22 Tax Tips for the Dining and Beverage Industry (11/97) *
- 25 Tax Tips for Auto Repair Garages and Service Stations (11/97)
- 28 Business and Property Tax Information for City and County Officials (9/97)
- 40 Tax Tips for Watercraft Industry, *addendum* (1/98)
- 71 California City and County Sales and Use Tax Rates (1/98) *
- 76 Audits and Appeals (revised 12/97) *
- 81 Franchise and Income Tax Appeals (9/97) *
- 31V Tax Tips for Grocery Stores, *Vietnamese* (7/95)

- 31K Tax Tips for Grocery Stores, *Korean* (7/95)
- 51C Guide to Board of Equalization Services, *Chinese* (10/96)
- 70S The California Taxpayers' Bill of Rights, *Spanish* (6/97)

Sales and Use Tax Laws (cover date)

- 1 Sales and Use Tax Law (1/98)
- 2 Uniform Local Sales and Use Tax Law and Transactions and Use Tax Law (1/98)

* Available at our Internet site:
<http://www.boe.ca.gov>

For Assistance

Information Center. Call 24 hours a day to use our automated services, including our fax-back service. To speak to a representative, call between 8:00 A.M. and 5:00 P.M., Monday through Friday, excluding State holidays.

1-800-400-7115

For telephone devices for the deaf:

1-800-735-2929 (TDD phone)

1-800-735-2922 (voice phone)

Seller's Permit Number Verification (direct line). Call 1-888-225-5263.

Internet. Visit us at <http://www.boe.ca.gov> for information on sales and use tax rates by county, publications, district office telephone numbers, public meetings, and so forth.

Taxpayers' Rights Advocate. If you need help with problems you have been unable to resolve at other levels, please call the Advocate's office at 1-888-324-2798.

Tax Evasion Hotline. To report suspected tax evasion, call us toll-free at 1-888-334-3300.

Legislative Bills. Write to the Legislative Bill Room, State Capitol, Room B-32, Sacramento, CA 95814. The Bill Room does not provide copies of Board forms or publications.